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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Mark A Johnson Photography LLC,

Plaintiff,

v.

Knitec Enterprises Corporation,

Defendant.

Case No:

**COMPLAINT FOR:
(1) COPYRIGHT
INFRINGEMENT UNDER
17 U.S.C. §501**

DEMAND FOR JURY TRIAL

Plaintiff Mark A Johnson Photography LLC (“*Plaintiff*”), by and through its undersigned counsel, for its Complaint against defendant Knitec Enterprises Corporation (“*Defendant*”) states and alleges as follows:

INTRODUCTION

1. This action seeks to recover damages for copyright infringement under the Copyright Act, 17 U.S.C §101 *et seq.*

2. Mark A Johnson (“*Johnson*”) created a photograph of a wave showing

1 a mountain view (the “*Photograph*”) in which Plaintiff owns the rights and licenses
2 for various uses including online and print publications.

3 3. Defendant owns and operates a website at www.knitec.com (the
4 “*Website*”).

5 4. Defendant, without permission or authorization from Plaintiff, actively
6 copied and displayed the Photograph on the Website and engaged in this misconduct
7 knowingly and in violation of the United States copyright laws.

8 **PARTIES**

9 5. Plaintiff Mark A Johnson Photography LLC is a Hawaii limited liability
10 company and maintains a principal place of business in Hawaii County, Hawaii.

11 6. Upon information and belief, defendant Knitec Enterprises Corporation
12 is a California corporation with a principal place of business at 1225 Puerta Del Sol,
13 Suite 600, San Clemente in Orange County, California.

14 **JURISDICTION AND VENUE**

15 7. This Court has subject matter jurisdiction over the federal copyright
16 infringement claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331.

17 8. This Court has personal jurisdiction over Defendant because it
18 maintains its principal place of business in California.

19 9. Venue is proper under 28 U.S.C. §1391(b)(2) because Defendant does
20 business in this Judicial District and/or because a substantial part of the events or
21 omissions giving rise to the claim occurred in this Judicial District.

22 **FACTS COMMON TO ALL CLAIMS**

23 **A. Plaintiff's Copyright Ownership**

24 10. Plaintiff is a professional photography company which is the legal and
25 rightful owner of certain photographs which Plaintiff commercially licenses.

26 11. Plaintiff has invested significant time and money in building Plaintiff's
27 photograph portfolio.

1 12. Plaintiff has obtained active and valid copyright registrations from the
2 United States Copyright Office (the “USCO”) which cover many of Plaintiff’s
3 photographs while many others are the subject of pending copyright applications.

4 13. Plaintiff’s photographs are original, creative works in which Plaintiff
5 owns protectable copyright interests.

6 14. On February 3, 2006, Johnson first published the Photograph. A copy
7 of the Photograph is attached hereto as Exhibit 1.

8 15. In creating the Photograph, Johnson personally selected the subject
9 matter, timing, lighting, angle, perspective, depth, lens, and camera equipment used
10 to capture the image and made each and every artistic determination necessary for
11 the creation of the work.

12 16. On December 11, 2017, the Photograph was registered by the USCO
13 under Registration No. VA 2-093-576.

14 17. Johnson created the Photograph with the intention of it being used
15 commercially and for the purpose of display and/or public distribution.

16 18. Plaintiff acquired the rights in and to the Photograph by way of written
17 assignment.

18 **B. Defendant's Infringing Activity**

19 19. Defendant is the registered owner of the Website and is responsible for
20 its content.

21 20. Defendant is the operator of the Website and is responsible for its
22 content.

23 21. The Website is a key component of Defendant's popular and lucrative
24 commercial enterprise.

25 22. The Website is monetized in that it sells merchandise and offers paid
26 subscription services to the public and, on information and belief, Defendant profits
27 from these activities.
28

1 23. Upon information and belief, Defendant has not implemented adequate
2 internal policies to verify copyright ownership before content use, indicating a gross
3 negligence in legal compliance, which is essential for a company with Defendant's
4 reach, capabilities, and level of sophistication.

5 24. Upon information and belief, Defendant's internal policies, if any, are
6 either not designed to verify copyright ownership before content use or are
7 systematically ignored, indicating a willful, recurring disregard for copyright
8 compliance.

9 25. Defendant's failure to adopt or effectively enforce internal copyright
10 policies, if any, indicates *de facto* willful infringement.

11 26. Without permission or authorization from Plaintiff, Defendant
12 volitionally copied and displayed the Photograph on the Website as part of an on-
13 line webpage at URL: <https://knitec.com/pages/meet-the-team> ("*Infringements 1-*
14 *2*"). Copies of screengrabs of the Website including the Photograph are attached
15 hereto collectively as Exhibit 2.

16 27. The Photograph was intentionally and volitionally copied and stored by
17 Defendant at URL: [https://knitec.com/cdn/shop/files/1422465192-0-energia-da-](https://knitec.com/cdn/shop/files/1422465192-0-energia-da-onde-marine-si-sperimenta-in-sicilia_300x.jpg?v=1614343219)
18 [onde-marine-si-sperimenta-in-sicilia_300x.jpg?v=1614343219](https://knitec.com/cdn/shop/files/1422465192-0-energia-da-onde-marine-si-sperimenta-in-sicilia_300x.jpg?v=1614343219).

19 28. The Infringements are copies of Plaintiff's original image that were
20 directly copied and displayed on the Website by Defendant.

21 29. Plaintiff first observed the Infringements on February 18, 2024.

22 30. Upon information and belief, the Photograph was copied and displayed
23 by Defendant without license or permission, thereby infringing on Plaintiff's
24 copyrights in and to the Photograph.

25 31. The Infringements include a URL ("*Uniform Resource Locator*") for a
26 fixed tangible medium of expression that was sufficiently permanent or stable to
27 permit it to be communicated for a period of more than a transitory duration and
28

1 therefore constitutes a specific infringement.

2 32. Upon information and belief, Defendant takes an active and pervasive
3 role in the content posted on its Website, including, but not limited to copying,
4 posting, selecting, commenting on, and displaying images including but not limited
5 to Plaintiff's Photograph.

6 33. Upon information and belief, the Photograph was willfully and
7 volitionally posted to the Website by Defendant.

8 34. Upon information and belief, Defendant was aware of facts or
9 circumstances from which the determination regarding the Infringements was
10 apparent. Defendant cannot claim that it was not aware of the infringing activities,
11 including the specific Infringements which form the basis of this complaint, since
12 such a claim would amount to only willful blindness to the Infringements on the part
13 of Defendant.

14 35. Upon information and belief, Defendant engaged in the Infringements
15 knowingly and in violation of applicable United States copyright laws.

16 36. Upon information and belief, Defendant had complete control over and
17 actively reviewed and monitored the content posted on the Website.

18 37. Upon information and belief, Defendant has the legal right and ability
19 to control and limit the infringing activities on its Website and exercised and/or had
20 the right and ability to exercise such right.

21 38. Upon information and belief, Defendant has received a financial benefit
22 directly attributable to the Infringements.

23 39. Upon information and belief, the Infringements increased traffic to the
24 Website and, in turn, caused Defendant to realize an increase in its business revenues
25 and/or merchandise sales.

26 40. Upon information and belief, a large number of people have viewed the
27 unlawful copies of the Photograph on the Website.
28

1 41. Upon information and belief, Defendant at all times had the ability to
2 stop the reproduction and display of Plaintiff's copyrighted material.

3 42. Defendant's use of the Photograph harmed the actual market for the
4 Photograph.

5 43. Defendant's use of the Photograph, if widespread, would harm
6 Plaintiff's potential market for the Photograph.

7 44. On June 12, 2024, Plaintiff, via counsel, served a letter seeking to
8 address the complaints contained herein concerning Defendant's infringement of
9 Plaintiff's rights-protected work.

10 45. Thereafter, on July 30, 2024, Plaintiff, via counsel, served a follow up
11 letter seeking to address said complaints directly with Defendant in attempt to avoid
12 litigation.

13 46. Despite Plaintiff's efforts and willingness to address Defendant's
14 infringing activity, Defendant failed to respond, and Plaintiff was forced to seek
15 judicial intervention for Defendant's infringing activity.

16 47. As a result of Defendant's misconduct, Plaintiff has been substantially
17 harmed.

18 **FIRST COUNT**

19 ***(Direct Copyright Infringement, 17 U.S.C. §501 et seq.)***

20 48. Plaintiff repeats and incorporates by reference the allegations contained
21 in the preceding paragraphs, as though set forth in full herein.

22 49. The Photograph is an original, creative work in which Plaintiff owns a
23 valid copyright.

24 50. The Photograph is properly registered with the USCO and Plaintiff has
25 complied with all statutory formalities under the Copyright Act and under
26 regulations published by the USCO.

27 51. Plaintiff has not granted Defendant a license or the right to use the
28

1 Photograph in any manner, nor has Plaintiff assigned any of its exclusive rights in
2 the copyright to Defendant.

3 52. Without permission or authorization from Plaintiff and in willful
4 violation of Plaintiff's rights under 17 U.S.C. §106, Defendant improperly and
5 illegally copied, reproduced, distributed, adapted, and/or publicly displayed works
6 copyrighted by Plaintiff thereby violating one of Plaintiff's exclusive rights in its
7 copyrights.

8 53. Defendant's reproduction of the Photograph and display of the
9 Photograph constitutes willful copyright infringement.

10 54. Upon information and belief, Defendant willfully infringed upon
11 Plaintiff's copyrighted Photograph in violation of Title 17 of the U.S. Code, in that
12 Defendant used, published, communicated, posted, publicized, and otherwise held
13 out to the public for commercial benefit, Plaintiff's original and unique Photograph
14 without Plaintiff's consent or authority.

15 55. As a result of Defendant's violations of Title 17 of the U.S. Code,
16 Plaintiff is entitled to an award of actual damages and disgorgement of all of
17 Defendant's profits attributable to the infringements as provided by 17 U.S.C. § 504
18 in an amount to be proven or, in the alternative, at Plaintiff's election, an award for
19 statutory damages against Defendant for each infringement pursuant to 17 U.S.C. §
20 504(c).

21 56. As a result of the Defendant's violations of Title 17 of the U.S. Code,
22 the court in its discretion may allow the recovery of full costs as well as reasonable
23 attorney's fees and costs pursuant to 17 U.S.C. § 505 from Defendant.

24 57. As a result of Defendant's violations of Title 17 of the U.S. Code,
25 Plaintiff is entitled to injunctive relief to prevent or restrain infringement of
26 Plaintiff's copyright pursuant to 17 U.S.C. § 502.

JURY DEMAND

58. Plaintiff hereby demands a trial of this action by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enters a judgment finding that Defendant has infringed on Plaintiff's rights to the Photograph in violation of 17 U.S.C. §501 *et seq.* and therefore award damages and monetary relief as follows:

- a. finding that Defendant infringed Plaintiff's copyright interest in and to the Photograph by copying and displaying it without a license or consent;
- b. for an award of actual damages and disgorgement of all of Defendant's profits attributable to the infringements as provided by 17 U.S.C. § 504(b) in an amount to be proven or, in the alternative, at Plaintiff's election, an award for statutory damages against Defendant for each infringement pursuant to 17 U.S.C. § 504(c), whichever is larger;
- c. for an order pursuant to 17 U.S.C. § 502(a) enjoining Defendant from any infringing use of any of Plaintiff's works;
- d. for costs of litigation and reasonable attorney's fees against Defendant pursuant to 17 U.S.C. § 505;
- e. for pre-judgment interest as permitted by law; and
- f. for any other relief the Court deems just and proper.

1 DATED: January 23, 2025

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